SIPC

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VIA HAND DELIVERY

Cynthia L. Johnson, Director
Cash Management Policy and Planning Division
Financial Management Services
U.S. Department of the Treasury
Room 420
401 14th Street, SW
Washington, DC 20227

Re: Proposed Rule 208, Title 31 CFR;
Management of Federal Agency Disbursements

Dear Ms. Johnson:

This letter constitutes the comments of the Securities Investor Protection Corporation ("SIPC") on proposed Rule 208 ("Rule") of title 31, Code of Federal Regulations, as published in the Federal Register, Vol. 62, No. 179, at 48713-48726 (Tuesday, September 16, 1997). SIPC's comments pertain mainly to proposed Section 208.6 of the proposed Rule, particularly as it addresses the SIPC protection program and broker-dealers registered under the Securities Exchange Act of 1934 and their membership in SIPC.

The following may be helpful to you in understanding the SIPC program. SIPC is not a regulatory agency. The SIPC program is not "deposit insurance" as set forth on page 48722 in the explanatory section of proposed Section 208.6. The term "deposit insurance" is more appropriately used in the context of banks, savings banks, credit unions, savings associations, and United States-based foreign bank branches. SIPC was created by Congress by means of the Securities Investor Protection Act ("SIPA"), 15 U.S.C. §78aaa *et seq.*, to protect the securities customers of member broker-dealers for the cash and securities which those members are holding for customers. In the

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event a member fails financially, SIPC may ask a federal court to appoint a trustee to liquidate the member and protect its customers, or in limited situations involving smaller members, SIPC may protect the customers directly. With certain limited exceptions as to securities registered in customers' names, customers receive, on a pro-rata basis, all customer securities and cash held by the member. After the above distribution, SIPC's funds are available to satisfy each customer's claim up to a maximum of $500,000, including up to $100,000 on claims for cash (as distinct from claims for securities).

Protection under SIPA is provided as to cash deposited in a securities account for the purpose of purchasing securities. The SIPC program does not protect against losses arising from changes in market value of a customer's securities positions. The comment on page 48722 in the explanatory section of proposed Section 208.6 that funds deposited into a recipient's account at a securities broker-dealer and swept on a regular basis into an investment vehicle owned by the recipient are protected by "deposit insurance" may be misleading in a SIPA context. The most common investment vehicle utilized with these swept funds are money market mutual funds which, although thought of by investors as cash, are in fact securities. When held by a SIPC member in a customer's securities account, such fund shares are protected as any other covered security. An investment in mutual fund shares, including money market mutual fund shares, is not protected or guaranteed by SIPC against loss in value.

Pursuant to SIPA, 15 U.S.C. §78ccc(a)(2)(A), not all broker-dealers registered with the United States Securities and Exchange Commission are members of SIPC. There are certain exceptions set forth in that statutory provision.[1]

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[1] 15 U.S.C. §78ccc(a)(2)(A) excludes the following from SIPC membership:

> (i) persons whose principal business, in the determination of SIPC, taking into account business of affiliated entities, is conducted outside the United States and its territories and possessions; and
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> (ii) persons whose business as a broker or dealer consists exclusively of (I) the distribution of shares of registered open end investment companies or unit investment trusts, (II) the sale of variable annuities, (III) the business of insurance, or (IV) the business of rendering investment advisory services to one or more registered investment companies or insurance company separate accounts.

In addition, government securities dealers registered under section 15C(a)(1)(A) of the Securities Exchange Act of 1934 are not SIPC members.

If you have any questions, SIPC's staff stands ready to provide whatever assistance you may request. Please feel free to call me or Steve Harbeck, SIPC's General Counsel.

Sincerely,

Michael E. Don
President

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